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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/781,860	02/12/2001	Hirohisa Satoh	01061/LH	5146

7590 08/12/2004

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EXAMINER


PORTER, RACHEL L

ART UNIT PAPER NUMBER

3626

DATE MAILED: 08/12/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/781,860	Applicant(s) SATO, HIROHISA	
	Examiner Rachel L. Porter	Art Unit 3626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 February 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>9/16/03</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Notice to Applicant

1. This communication is in response to the application filed 2/12/01. Claims 1-4 are pending.

Priority

2. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file. (Priority of 2/14/2000)

Information Disclosure Statement

3. The information disclosure statement filed September 19, 2003 fails to comply with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609 because it fails to provide an English translation, abstract, or statement of relevance for Japanese patent JP H04-352941. It has been placed in the application file, but the information referred to in this particular reference has not been considered as to the merits. Applicant is advised that the date of any re-submission of any item of information contained in this information disclosure statement or the submission of any missing element(s) will be the date of submission for purposes of determining compliance with the requirements based on the time of filing the statement, including all certification requirements for statements under 37 CFR 1.97(e). See MPEP § 609 ¶ C(1).

Specification

4. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

5. The abstract of the disclosure is objected to because it includes multiple paragraphs. Correction is required. See MPEP § 608.01(b).

Claim Objections

6. The claims are objected to for the following informalities:

Where a claim sets forth a plurality of elements or steps, each element or step of the claim should be separated by a line indentation. 37 CFR §1.75(i).

Claim Rejections - 35 USC § 112

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claims 1-4 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1, in particular, is narrative in form and replete with indefinite and functional or operational language. The structure, which goes to make up the device,

must be clearly and positively specified. The structure must be organized and correlated in such a manner as to present a complete operative device. The claim(s) must be in one sentence form only. It is unclear to the Examiner which components are included in the recited apparatus and which functionalities are performed by these components. For example, the claim recites "a plurality of instruments for measuring vital parameters which each have a function of a clock, a memory and a mechanism for sending data obtained by measurement to a host computer together with the time of the measurement via the communication terminal and a host computer which accumulates..." It is not clear which language in the claim is meant to further define the apparatus of the preamble, and which elements describe the "plurality of instruments." It is also unclear to the Examiner which functions of a clock the applicant intends to claim with the recited language.

Claims 2-4 inherit the deficiencies of claim 1 through dependency, and are also rejected. Furthermore, as per claim 4, it is also unclear to the Examiner how the present claim is intended to further limit claim 1, and what the Applicant means by the health condition being "a direction for healthcare."

NOTE: In light of the extensive 112 2nd problems, the examiner is interpreting the claims and applying prior art as best possible using these interpretations. These interpretations of claim language are for examination purposes only.

Claim Rejections - 35 USC § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

10. Claims 1-2 and 4 are rejected under 35 U.S.C. 102(e) as being anticipated by Joao (USPN 6,283,761).

[claims 1-2, 4] Joao teaches a healthcare apparatus that includes a several user communication terminals and a host/central processing computer, (Figures 1-6; col. 13, lines 30-col. 16, line 32). The central processor/host computer may accept a several types of data ((e.g. x-ray, MRI, CAT scans)—col.16, line 66-col. 17, line 12). The central processor also receives data from the patient communication device, which may include vital parameter monitors. (col. 22, lines 22-39) Joao further discloses that the system includes at least one memory mechanism (col. 16, lines 38-col. 18, line 65;) and that the information stored by the system is used to assist in patient diagnosis (col. 18, lines 66-col. 19, line 20). The memory mechanisms disclosed by Joao include databases, magnetic stripe cards, and smart card (i.e. IC cards) (col. 39, line 63- col. 40, line 2)

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Joao in view of Official Notice.

[claim 3] Joao teaches an apparatus wherein the vital parameters of pulse rate, blood sugar, blood pressure, and electrocardiographic complex are monitored, but does not expressly disclose that information on weight, a fat content of a body, a temperature and an amount of movement are collected. However, it is respectfully submitted that weight, fat content, temperature, and exercise/body activity are well-known measures of general health. At the time of the Applicant's invention, it would have been obvious to one of ordinary skill in the art to modify the apparatus of Joao to include devices to measure these parameters, as well. One would have been motivated to include these features to facilitate the collection and dissemination a comprehensive and accurate patient record for diagnostic applications. (see Joao: col. 2, lines 38-62)

Conclusion

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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- McPhee et al (USPN 5,435,315) teaches a system for evaluating physical fitness by measuring the blood pressure, flexibility, body fat and weight of an individual.
- Maus et al (USPN 6,602,469) teaches a system and method for remote patient monitoring.
- Fu et al (USPN 4,803) teaches a system and method for personal health monitoring which includes sensors for a patients weight, temperature, and blood pressure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rachel L. Porter whose telephone number is 703-305-0108. The examiner can normally be reached on M-F, 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on (703)305-9588. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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ALEXANDER KALINOWSKI
PRIMARY EXAMINER